IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 9132 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MITHILESHKUMAR DWARKAPRASAD PANDEY THRO' HIS WIFE KAVITABEN
Versus
STATE OF GUJARAT

Appearance:
MS JAYSHREE C BHATT for Petitioner
MR KG Sheth, APPR for Respondents

CORAM : MR.JUSTICE D.K.TRIVEDI
and
MR.JUSTICE J.R.VORA

Date of decision: 26/12/2002

ORAL JUDGEMENT (Per : MR.JUSTICE D.K.TRIVEDI)

Rule. Mr. K.G. Sheth, learned APP waives service of rule on behalf of respondents. By consent of the learned counsel, the rule is fixed forthwith.

Heard Ms. Jayshree C. Bhatt, learned advocate for the applicant and Mr. K.G. Sheth, learned APP for the respondent - State. This application is filed by wife of the prisoner for temporary bail for four weeks for her husband Shri Mithileshkumar Dwarkaprasad Pandey who is at present undergoing sentence at Sabarmati Central Prison and the ground for temporary bail highlighted in the application that his minor son Jigar, aged 7 years is admitted as an indoor patient in the hospital of Dr. Arvind K.Sharma at Sharma Polyclinic & Residence, Ahmedabad, and is suffering from jaundice. The medical certificate issued by Dr.Arvind K.Sharma is also annexed with the application to show that minor Jigar is suffering from jaundice and he was admitted in his clinic on 15.12.2002 and the presence of a responsible person is required during his treatment. On 23.12.2002 we have asked Mr.Sheth to inquire about the certificate issued by Dr. Arvind K.Sharma. Accordingly, Mr. Sheth had made inquiry and he was informed on getting confirmation from Dr. Sharma that Dr. Sharma has confirmed that Jigar son of the applicant and convict is admitted in his Clinic from 15.12.2002 as Jigar is suffering from jaundice and till date he is an indoor patient and necessary treatment is provided to him. Mr. Sheth, learned APP has also produced the jail statement regarding the detail of the prisoner and as found from the said statement that convict Mithileshkumar was convicted by the competent court for the offence under Section 302 of the IPC as per judgment and order dated 11.2.2002 and ordered to suffer RI for life. The statement further shows that the convict was granted set off for more than three months and by this time the convict has undergone the sentence of 8 months and 9 days. It is further reflected from the statement that for about 64 days the convict was released on temporary bail on the ground of illness of his wife as well as the illness of his son. The convict has not enjoyed any furlough. Considering the statement made before us and the medical certificate issued by Dr. Sharma, it is clear that minor Jigar aged about 7 years, son of the applicant and the convict is admitted in the hospital of Dr. Sharma for jaundice and the presence of the convict is necessary during his treatment. As observed earlier, the applicant - accused has also enjoyed four times temporary bail and all the times he has surrendered to the Jail Authority in time.

In view of the above, we are inclined to grant temporary bail to the convict - Shri Mithileshkumar Dwarkaprasad Pandey for a period of 30 days from the date of his actual release on condition that the convict prisoner shall furnish a personal bond in the sum of Rs. 5,000/- or cash deposit of Rs. 5,000/- with the Jail Authority, he shall mark his presence on every Saturday between 11.00 a.m. and 5.00 p.m. at Amraiwadi Police Station, Ahmedabad, he shall not leave the jurisdiction of Ahmedabad City and Ahmedabad Rural during the period of his temporary bail and he shall surrender to the Jail Authority on expiry of the temporary bail. Rule is accordingly made absolute. D.S. permitted.

(D.K. Trivedi, J.)

(J.R. Vora, J.)

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